IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10385 of 2004

Between:

Komali Bullaiah, S/o Surayya, Rajavaram (v), Athreyapuram (M), East Godavari District.

..... PETITIONER

AND

1 Sri Ramalingeswara Swamy Temple, Peravaram (V), Athreyapuram (M), East Godavari District, rep. by its Managing Trustee.
2 The Assistant Commissioner, Endowments Department, Rajahmundry, E.G. District.
3 Kondru Naga Raju, S/o Subba Rao, R/o Bobbarlanka (V), Atheryapuram (M), E.G. District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ or direction more particularly one in the nature of writ of Mandamus, declaring the action of the 1st respondent in conducting the auction in respect of the land situated in Survey No. 25, admeasuring Ac. 2.71 cents out of Ac. 5.41 cents at Peravaram (V), Athreyapuram (M), E.G. District, despite of petitioner's application dt. 17-11-2003 is been pending before the 2nd respondent, which is filed as per rule 3 of G.O.Ms.No. 379, dt 11-3-2003, and also without following the procedure as contemplated under rule 11 of G.O.Ms.No.379 as illegal, arbitrary and violative of provisions of G.O.Ms.No. 379 apart from violative Principles of Natural Justice of equity and fair play and consequently, set aside the auction held on 21-6-2004 in respect of the land situated in Survey No. 25, admeasuring Ac. 2.71 cents out of Ac. 5.41 cents at Peravaram(V), Athreyapuram (M), E.G. District

For the Petitioner:MR.SITA RAM CHAPARLA , Advocate

For the Respondent No.1 & 2: GP FOR ENDOWMENTS

The Court at the admission stage made the following order:

This writ petition is filed by the petitioner seeking a writ of mandamus declaring the action of the first respondent in conducting the auction in respect of the land situated in Survey No.25, admeasuring Ac.2.71 cents out of Ac.5.41cents at Peravaram village, Athreyapuram Mandal, East Godavari District, as illegal and contrary to the provisions of Section 82 (2) of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short the Act) as well as the Rules framed in G.O.Ms.No.379, dated 11-3-2003.

It is the case of the petitioner that he has been continuing as a tenant for the last 30 years. Originally he was continuing as a tenant in respect of Ac.5-41 cents. Subsequently the first respondent has leased out an extent of Ac.2.70 cents out of Ac.5-41 cents to one K.Subba Rao leaving an extent of Ac.2-71 cents to the petitioner as a tenant. It is stated that the petitioner has been continuing as a tenant as on date with reference to the said extent of Ac.2-71 cents.

It is also stated that the petitioner made an application on 17-11-2003 to the first respondent as well as to the second respondent stating that he is a landless poor in terms of the provisions of Section 82 (2) of the Act read with Rules framed in G.O.Ms.No.379 and therefore, the petitioner is entitled for the benefit of the said provisions and is entitled to continue in possession as well as to purchase the same. Though the said application of the petitioner is pending before the second respondent, the first respondent has resorted to auctioning the lease hold rights including the land which is in possession of the petitioner as a tenant. Therefore, the petitioner filed the present writ petition and sought appropriate orders not only not to dispossess him but also for disposal of his application pending before the second respondent.

At the time of hearing, this Court ordered status quo on 24-6-2004 with reference to an extent of Ac.2-71 cents, which is stated to be in possession of the petitioner. This Court also directed the learned Standing Counsel for the respondents to get instructions. It is represented that the Standing Counsel was not able to get

instructions. Hence, the writ petition is disposed of on merits.

Heard both sides and considered the material on record.

Admittedly, the petitioner is a tenant in respect of the first respondent's lands. According to the petitioner, originally he was continuing as a tenant in an extent of Ac.5-41 cents. Later on, the tenancy was restricted to Ac.2-71 cents and he has been continuing as a tenant as on date. After the Act 1987 came into force, some protection was given to the landless poor, who would come within the said term.

According to the provisions, the persons in possession of the land less than Ac.2-50 cents of wet land or Ac.5-00 cents of dry land would fall in that category of landless poor. The said issue who is a landless poor is to be decided by the Assistant Commissioner of Endowments having jurisdiction. It is also the case of the petitioner that he made an application to the first and second respondents for declaration that he is a landless poor and the said application is still pending. In the light of the pendency of his application for declaration as landless poor, the first respondent is not entitled to dispossess the petitioner in respect of the land, which is being continued as a tenant by the petitioner.

Under the above circumstances, the second respondent is directed to dispose of the application of the petitioner expeditiously, preferably within a period of six weeks from the date of receipt of a copy of this order. Pending decision by the Assistant Commissioner i.e., the second respondent herein, the order of status quo granted by this Court on 24-06-2004 shall continue.

Accordingly, the writ petition is disposed of. No costs.

_____

07-07-2004

Rkk

To

1 Sri Ramalingeswara Swamy Temple, Peravaram (V), Athreyapuram (M), East Godavari District, rep. by its Managing Trustee.
2 The Assistant Commissioner, Endowments Department, Rajahmundry, E.G. District.
3. Two CCs to GP for Endowments, High Court Buildings,A.P.Hyderabad(OUT).

4. Two CD Copies.

5. One CC to Mr.Ch.Sita Ram, Advocate